

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. Genesis Lee Whitted

Docket No. 7:02-CR-104-1F

Petition for Action on Supervised Release

COMES NOW Eddie J. Smith, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Genesis Lee Whitted, who, upon an earlier plea of guilty to 18 U.S.C. § 922(g)(1), Possession of a Firearm by a Convicted Felon, was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, on June 2, 2003, to the custody of the Bureau of Prisons for a term of 180 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
2. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
3. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
4. The defendant shall participate in a program of mental health treatment, as directed by the probation office.

On September 7, 2004, as a result of changed circumstances pursuant to a 35(b) motion, the court reduced the imprisonment sentence to 120 months. Genesis Lee Whitted was released from custody on March 25, 2011, at which time the term of supervised release commenced. On April 5, 2011, a violation report was submitted to the court reporting the defendant tested positive for marijuana on April 4, 2011. As a result of this use, the defendant was referred to substance abuse counseling. On July 11, 2011, after Whitted admitted to using marijuana on July 4, 2011, the conditions of supervised release were modified to include the following:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 60 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

On September 9, 2011, after the defendant tested positive for marijuana on August 19, 2011, the court modified the conditions of supervised release to include the following:

The defendant shall participate in a cognitive behavioral program as directed by the probation office.

On June 18, 2012, a violation report was submitted to the court reporting the defendant was \$260 in arrears on his fine payments. The court agreed to continue supervision.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: The defendant reported on January 15, 2013, and acknowledged his use of marijuana on January 14, 2013. As a result, we will increase urinalysis testing and require the defendant to complete a cognitive behavioral program again. To provide a punitive sanction for this conduct, we are recommending that the conditions of supervision be modified to include six days in jail. The defendant continues to be in arrears on his fine payment. Since the violation report that was submitted on June 18, 2012, the defendant has only paid \$20. In an effort to collect the payments, we will explore executing a garnishment order with his employer. At this time, we are recommending that supervision be continued. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

The defendant shall be confined in the custody of the Bureau of Prisons for a period of 6 days, as arranged by the probation office, and shall abide by all rules and regulations of the designated facility.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

/s/ Robert K. Britt
Robert K. Britt
Senior U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Eddie J. Smith
Eddie J. Smith
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: January 16, 2013

ORDER OF COURT

Considered and ordered this 17th day of January, 2013, and ordered filed and made a part of the records in the above case.

James C. Fox
James C. Fox
Senior U.S. District Judge